

ARIZONA STATE VETERINARY MEDICAL EXAMINING BOARD
1740 W. ADAMS ST., SUITE 4600, PHOENIX, ARIZONA 85007
PHONE (602) 364-1PET (1738) FAX (602) 364-1039
VETBOARD.AZ.GOV

received
7/8/20

COMPLAINT INVESTIGATION FORM

If there is an issue with more than one veterinarian please file a separate Complaint Investigation Form for each veterinarian

PLEASE PRINT OR TYPE

FOR OFFICE USE ONLY

Date Received: July 8, 2020

Case Number: 21-02

A. THIS COMPLAINT IS FILED AGAINST THE FOLLOWING:

Name of Veterinarian/CVT: marlayna A. barnard, DVM

Premise Name: blue pearl specialty and emergency pet hospital

Premise Address: 13034 w rancho santa fe

City: avondale State: az Zip Code: 85392

Telephone: 6233854555

B. INFORMATION REGARDING THE INDIVIDUAL FILING COMPLAINT*:

Name: brittnay duncan

Address: [REDACTED]

City: [REDACTED] State: [REDACTED] Zip Code: [REDACTED]

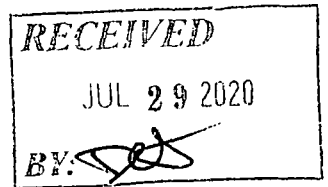
Home Telephone: [REDACTED] Cell Telephone: [REDACTED]

*STATE LAW REQUIRES WE HAVE TO DISCLOSE YOUR NAME UNLESS WE CAN SHOW THAT DISCLOSURE WILL RESULT IN SUBSTANTIAL HARM TO YOU, SOMEONE ELSE OR THE PUBLIC PER A.R.S. § 41-1010. IF YOU HAVE REASON TO BELIEVE THAT SUBSTANTIAL HARM WILL RESULT IN DISCLOSURE OF YOUR NAME PLEASE PROVIDE COPIES OF RESTRAINING ORDERS OR OTHER DOCUMENTATION.

F. ALLEGATIONS and/or CONCERNS:

Please provide all information that you feel is relevant to the complaint. This portion must be either typewritten or clearly printed in ink.

this doctor and place basically killed my dog. I brought my dog into this hospital for labored breathing and being lethargic, and not eating. After XRAYs and a valley fever test they called me and told me she was ready to be picked up and just in heat, nothing serious, no evidence of cancer seen, just general inflammation and mammary chain masses. FROM THE BEGINNING IT WAS ALL ABOUT MONEY AND I DIDNT HAVE UNLIMITED FUNDS . The moment I saw my dog I knew their conclusion was 100% I could see in her eye she was slowly dying. her body giving up. you sent me home thinking it was her damn period and instead I got a 2nd opinion which verified she had metastatic cancer throughout her whole body and slowly bleeding out internally. you guys took time and from me I could have spent trying to save my dog. essentially you killed my bestfriend and forever changed my life. I don't know how to even survive this. They did me a real disservice and let me and my dog down when we trusted them. I don't know if it was due to financial, to ego, to carelessness or just stupidity but you guys missed something huge, something that was going to kill her if not caught in time and treated. I then called to let Mrs. Barnard know she misdiagnosed my dog and signed her death warrant. my life is forever changed due to this loss and I want her to know how much I will be suffering every day the rest of my life. I also requested a refund which she gave every reason to why I didn't deserve one. Her lack of remorse and willingness to apologize for ruining my life is unacceptable and unprofessional.



Marlayna Barnard, DVM
[REDACTED]
[REDACTED]

July 24, 2020

Arizona State Veterinary Medical Examining Board
Tracy A. Riendeau, CVT
1740 W. Adams Street, Suite 4600
Phoenix, AZ 85007

21-02, In Re: Marlayna Barnard, DVM

Ms. Riendeau:

I am writing in response to your letter dated July 10, 2020. Your letter was not delivered to my address until after July 20. I have enclosed the complete record for Chloe (Khloe) Duncan along with a statement from Jonathan Coventry regarding his interaction with Ms. Brittnay Duncan.

Brittnay Duncan arrived at the BluePearl Veterinary Emergency Room around 06:30-06:45 in the morning on July 1, 2020. Khloe was triaged by the overnight staff and considered to be a stable patient. This veterinary ER has curbside protocols in place due to the Covid-19 outbreak and Ms. Duncan waited in her car with Khloe (at her request). We do allow pets to wait in the clinic to prevent any overheating issues if clients prefer.

I examined Khloe and found her to be excited and panting with no fever. She had several mammary masses, her gums were pink, no heart murmur was present, and she had increased bronchovesicular sounds. It was clear she was breathing more rapidly than normal but she was not showing any dyspnea or orthopnea. She had an enlarged vulva.

After my initial evaluation, due to curbside protocols, I spoke with Ms. Duncan over the phone. During this conversation with Ms. Duncan, she informed me that Khloe was lethargic, stiff and sore, not eating, and breathing heavier than normal at home. According to Ms. Duncan, this all started the night before. Ms. Duncan stated she has 3 other dogs at home, one of them is about the same age as Khloe. According to Ms. Duncan, Khloe has always been more energetic than that other dog and has not acted old. Ms. Duncan also informed me that Khloe did not eat her normal food last night so she gave her hamburger and gravy, which she ate. I also inquired about the moderately sized mammary masses and Ms. Duncan stated they had been there for a few years and were growing slowly (although they had grown slightly more in the last year). Ms. Duncan stated that she was not sure when Khloe was last in heat but did state that one of her dogs is in heat as she has found blood drips in the house.

I asked Ms. Duncan if Chloe was urinating and defecated normally. Ms. Duncan stated she has not noted her stools or urine but Khloe has been asking to go outside more often than normal. When asked if Khloe had lost or gained any weight recently, Brittnay said she may have lost a little. I asked if Khloe may have gotten into anything or eaten anything she should not have and the answer was no.

I discussed my physical exam findings with Ms. Duncan. The increased respiratory rate could indicate something occurring within the lungs themselves, such as pneumonia or fluid, or could indicate a more systemic disease such as valley fever or cancer. Thoracic radiographs were recommended to look for a primary pulmonary disease, potential valley fever, or signs of cancer. General lab work was recommended to characterize potential findings on the radiographs and to look for other causes of the heavy breathing if the radiographs are clear. The only other significant finding on Khloe's physical exam were the mammary masses. I discussed that mammary masses can be cystic, become infected, or be cancerous. I explained to Ms. Duncan that we could consider a needle aspirate of the masses to determine the underlying cause but biopsy is much more diagnostic and could be performed at her primary veterinarian. They will likely need to be removed in the near future.

I recommended to Ms. Duncan that we take thoracic radiographs, perform in house lab work (CBC, chemistry 17), and possibly a valley fever test. I discussed the cost of each test and the total cost of all three with the consultation. Ms. Duncan asked to only perform the radiographs. I informed her of the cost of the radiographs and consultation, informed her I would place her on hold and get a client service coordinator to take payment, and that it would take a few hours for the radiographs and radiology review. During that time, she was welcome to leave and run errands or go home and we would provide Khloe with water while waiting results.

I remember Ms. Duncan called a couple of times while awaiting the radiology review for an update and she was updated by the technical staff.

I called Ms. Duncan again once I had the radiographs and the radiology review. I did not tell her Khloe was ready to be picked up, was just in heat, nothing serious. I informed her that the radiographs did not show any evidence of metastatic cancer or a cause of Khloe's lethargy or heavy breathing. The radiologist read the radiographs as normal. She does have what is considered an "old dog interstitial pattern" (which is considered normal) but sometimes I have seen many dogs with valley fever have this pattern. During this conversation, I asked Ms. Duncan when the last time Khloe ate was, because she appears to have food or some material within her stomach. Ms. Duncan informed me that Chloe has food available at all times and must have eaten in the middle of the night. She asked me if there was anything wrong with her intestinal tract. I reminded her that we only took thoracic films today because of the breathing issue and no reported history of gastrointestinal problems. I explained that the radiographs just happen to include her stomach and her liver, which is how I can see the food. I asked Ms. Duncan if she felt Khloe was having gastrointestinal problems. Ms. Duncan stated, "this probably sounds crazy to you but I consulted a pet psychic and she told me Chloe had intestinal problems and I should give her goat's milk. Do people do that? Do people give their dogs goat's milk?" I informed Ms. Duncan that people do give goat's milk. It is usually given to nursing puppies, but it is not recommended as it can cause diarrhea. I offered to perform abdominal radiographs to make sure nothing in Khloe's abdomen was causing the symptoms and proceed with the recommended lab work.

Ms. Duncan declined abdominal radiographs and comprehensive lab work and asked if she could just do the valley fever test and take Khloe home. I stated that was an option if she did not want to proceed with all the lab work. I explained that the valley fever test takes days to come back and if Khloe gets worse before we get results, the additional testing should be performed. In the meantime, I recommended a minimum of antibiotic treatment and offered a written prescription since it is available

at a human pharmacy. Then, I informed Ms. Duncan she could return to pick Khloe up and take her home.

Between the time that I spoke with Ms. Duncan and when Ms. Duncan arrived to pick her up, 2 drops of blood were noted in Khloe's kennel. I asked Jonathan Coventry to inform Ms. Duncan at discharge that there were blood drops found in Khloe's kennel and it appeared to be coming from her vulva. She was likely in heat as well and she should be monitored.

At discharge, Jonathan Coventry reviewed the discharge instructions with Ms. Duncan and took Khloe out to her.

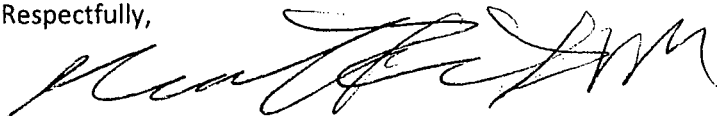
I did not have any further contact with Ms. Duncan until July 4th.

Ms. Duncan did call back on July 2nd and spoke with one of the veterinary nurses who advised her to bring Khloe back to be re-evaluated since she was not improving. Ms. Duncan then later called and spoke with one of the client service coordinators to have records and radiographs emailed.

When Ms. Duncan called to speak with me on July 4th, she was very upset. She did have a raised voice during the entire conversation. She immediately stated she wanted her money back and if I did not give her back the money she spent, she will sue us and take me to the board. Her voice was raised during the entire conversation. I attempted to give her my condolences several times and ask more information about what was found with Khloe on the additional testing. She gave me bits and pieces of information in between saying it didn't matter because she was just calling to make sure that I knew that I ruined her life.

During this conversation I learned from Ms. Duncan that Khloe had an ultrasound that diagnosed metastatic cancer in the abdomen and internal hemorrhage. She also told me that Khloe was not in heat and the next day was bleeding from her mouth. (There was no blood noted in the mouth on my exam but there was a small amount of blood at the vulva). She stated she had to euthanize Khloe because she could not afford the surgery to address her cancer.

Respectfully,

A handwritten signature in black ink, appearing to read 'Marlayna Barnard', written in a cursive style.

Marlayna Barnard, DVM



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INVESTIGATIVE COMMITTEE REPORT

TO: Arizona State Veterinary Medical Examining Board

FROM: PM Investigative Committee: Adam Almaraz - Chair
Amrit Rai, DVM
Cameron Dow, DVM
Brian Sidaway, DVM

STAFF PRESENT: Tracy A. Riendeau, CVT - Investigations
Marc Harris – Assistant Attorney General

RE: Case: 21-02

Complainant(s): Brittnay Duncan

Respondent(s): Marlayna Bernard, DVM (License: 4587)

SUMMARY:

Complaint Received at Board Office: 7/8/20

Committee Discussion: 11/3/20

Board IIR: 12/9/20

APPLICABLE STATUTES AND RULES:

Laws as Amended August 2018

(Lime Green); Rules as Revised

September 2013 (Yellow)

On July 1, 2020, "Khloe," a 10-year-old intact female Queensland/Shepherd mix was presented to Respondent with complaints of labored breathing, lethargy and anorexia.

Respondent examined the dog and noted that the dog was breathing more rapid than normal, had several mammary masses and an enlarged vulva. Respondent contacted Complainant to discuss her findings and to obtain additional history on the dog.

Respondent recommended diagnostics including blood work and radiographs. Complainant approved radiographs only at that time; results were reported normal by the radiologist. Complainant declined further diagnostics except for a Valley Fever test and took the dog home.

The following day, the dog was presented to another emergency facility for a second opinion due to the dog's condition worsening. There were concerns for paraneoplastic coagulopathy and development of DIC.

On July 3, 2020, an ultrasound was performed and the dog was diagnosed with metastatic mammary carcinoma with coagulopathy.

On July 4, 2020, Complainant elected to humanely euthanize the dog.

Complainant was noticed and did not appear.

Respondent was noticed and appeared telephonically. Attorney David Stoll was present.

The Committee reviewed medical records, testimony, and other documentation as described below:

- Complainant(s) narrative: *Brittnay Duncan*
- Respondent(s) narrative/medical record: *Marlayna Barnard, DVM*
- Consulting Veterinarian(s) narrative/medical records: *Arizona Veterinary Emergency and Critical Care Center.*

PROPOSED 'FINDINGS of FACT':

1. On July 1, 2020, the dog was presented to Respondent on emergency with complaints of labored breathing, lethargy and anorexia. The dog was triaged curbside due to COVID-19 protocols, the dog was deemed stable and Complainant elected to wait in the car with the dog until a veterinarian could evaluate the dog. According to Respondent, they did allow pets to wait in the clinic to prevent any overheating issues if the pet owner preferred.

2. Upon exam, the dog had a weight = 22.5kg, a temperature = 102.1 degrees, a heart rate = 140bpm and a respiration rate = 80rpm; mucous membranes = pink and SpO2 = 97% in room air. Respondent noted that the dog was tachypneic but not dyspneic; had increased bronchovesicular sounds; left chain mammary masses (which had been growing over the past 3 years – according to the pet owner); and an enlarge vulva with frank blood.

3. Respondent state in her narrative that she contacted Complainant after evaluating the dog to discuss her findings and obtain additional information regarding the dog's history. Complainant reported the dog was lethargic, stiff and sore, not eating and breathing heavier than normal. The dog did not eat her normal food the night before therefore Complainant fed the dog hamburger and gravy, which she ate. Complainant further advised that the mammary tumors had been present for a few years and were growing slowly, although they had grown slightly more in the last year. She was unsure when the dog was in heat last but did find drops of blood in the house. Complainant also reported that the dog had been asking to go out more, has possibly lost a little weight and had not gotten into anything or eaten anything she should not have.

4. Respondent explained to Complainant that the increase respiratory rate could indicate something occurring within the lungs themselves, such as pneumonia or fluid, or could indicate a more systemic disease such as Valley Fever or cancer. She recommended thoracic radiographs to look for a primary pulmonary disease, potential Valley Fever, or signs of cancer. Blood work was also recommended to characterize potential findings on the radiographs and look for other causes of the heavy breathing if the radiographs were clear. Respondent advised that the mammary masses could be cystic, become infected, or be cancerous. The could consider a needle aspirate of the mases to determine the underlying cause but a biopsy would be much more diagnostic and could be performed by her primary veterinarian.

5. At this time, Respondent recommended thoracic radiographs and blood work including a Valley Fever test. Complainant only wanted to perform the thoracic radiographs – Respondent

advised that it would take a few hours to take the radiographs and have them reviewed by a radiologist.

6. Radiology report interpretation: No significant findings.

7. According to Complainant, she was told by Respondent that the dog could be picked up; the dog was just in heat, nothing serious, no evidence of cancer seen, just general inflammation and mammary chain masses; Respondent denies this claim. According to Respondent, she advised Complainant that the radiographs did not show any evidence of metastatic cancer or a cause of the dog's lethargy or heavy breathing. The dog did have what was considered an old dog interstitial pattern and Respondent has seen many dogs with Valley Fever have this pattern. Respondent also asked when the dog ate last because there appeared to be food in the dog's stomach. Complainant stated that the dog has food available at all times and may have eaten in the middle of the night. They discussed possible GI issues and Respondent offered to perform abdominal radiographs; Complainant declined abdominal radiographs and comprehensive blood work. She requested the Valley Fever titer and wanted to take the dog home. Respondent agreed and explained that if the dog became worse, additional testing should be performed.

8. The dog was discharged later that day with a prescription for Doxycycline 100mg tablets. Respondent also had staff relay to Complainant that blood drops were found in the dog's kennel which appeared to be coming from her vulva. The dog was likely in heat and should be monitored.

9. The next day, Complainant called Respondent's premises to report the dog was still breathing abnormally. She felt Respondent had missed something and wanted to know what she could do at home. Premises staff advised that Respondent was not available and recommended bringing the dog in for evaluation. Complainant acknowledged the recommendation and disconnected the call.

10. Later that day, the dog was presented to Arizona Veterinary Emergency and Critical Care Center for a second opinion due to the dog's condition worsening. Dr. Strohacker evaluated the dog and found serosanguinous oozing from the gums, tachypnea, prominent submandibular and popliteal lymph nodes, no petechia or ecchymosis noted; blood was collected and the dog was placed in oxygen. PT/PTT were high, platelets very low and PCV/TS were normal. Dr. Strohacker recommended a full coagulation panel, abdominal ultrasound, 4Dx and fine needle aspirate of the lymph nodes but was concerned for hemorrhage from the sites. She expressed concern for neoplasia/lymphoma vs other – liver disease, tick borne disease. Complainant approved hospitalization for treatment and possible plasma transfusion if hemorrhage developed overnight.

11. On July 3, 2020, the dog did require a plasma transfusion overnight due to development of ecchymosis on her caudal abdomen and swelling in her hind limbs at the venipuncture sites. The dog continued to be tachypneic in oxygen and her PCV continued to drop. Dr. Strohacker consulted with a criticalist about concerns for paraneoplasia coagulopathy. The criticalist

shared Dr. Strohacker's concerns for this as well as development of DIC. She discussed these concerns with Complainant, advising that they may not be able to do much more for the dog as the lab work ruled out tick borne process, hepatopathy and there was no history of rodenticides/other meds. Treatment options were discussed as well as euthanasia.

12. Complainant approved continued hospitalization and another plasma transfusion. An abdominal ultrasound was performed which was consistent with metastatic disease secondary to mammary neoplasia, which was likely the cause for the current thrombocytopenia/paraneoplastic syndrome. However, concurrent toxin ingestion could be the cause of the clinical signs and coagulopathy with mammary neoplasia clinically incidental.

13. On July 4, 2020, Complainant visited the dog and discussed options with the attending DVM. Complainant wanted to continue treatment for the dog but expressed financial constraints. Complainant elected to humanely euthanize the dog.

14. Complainant expressed concerns that Respondent misdiagnosed the dog.

COMMITTEE DISCUSSION:

The Committee discussed that it was unfortunate that the dog declined so quickly after Respondent evaluated the dog. Complainant declined the recommended blood work and abdominal radiographs. At that time, the dog's condition did not appear dire.

COMMITTEE'S PROPOSED CONCLUSIONS of LAW:

The Committee concluded that no violations of the *Veterinary Practice Act* occurred.

COMMITTEE'S RECOMMENDED DISPOSITION:

Motion: It was moved and seconded the Board:

Dismiss this issue with no violation.

Vote: The motion was approved with a vote of 4 to 0.

The information contained in this report was obtained from the case file, which includes the complaint, the respondent's response, any consulting veterinarian or witness input, and any other sources used to gather information for the investigation.